
3500 Legal Services Assistance Program

3501 Overview

The Legal Services Assistance Program is the focal point for elder rights including such issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decision-making, protective services, public benefits, and dispute resolution. The Legal Services Assistance Program delivers legal services assistance to older individuals.

This chapter provides an outline for the Aging and Adult Administration operational principles and procedures for the Legal Services Assistance Program. **This policy chapter is subject to change as additional information and/or regulations are received from the U.S. Department of Health and Human Services, Administration on Aging.**

Reference: Older Americans Act of 1965, as Amended in 2000, P.L. 106-501, §306 and §307; and Title 45 C.F.R. §1321.67, §1321.69 and §1321.71.

3502 Operational Principles

3502.1 The Legal Services Assistance Program goals and priorities are as follows:

- A) To serve persons most economically and socially in need.
- B) To meet the legal needs of older individual in the area.
- C) To demonstrate the capacity to provide support to other advocacy efforts, for example, the Long-Term Care Ombudsman Program.
- D) To provide outreach to serve the institutionalized and homebound.
- E) To have the capacity to serve clients in their own language.

3502.2 Area Agencies on Aging must ensure that Title III funds as approved in the State Plan allotted for Part B to the Planning and Service Area shall be expended for the delivery of legal services assistance.

3503 Operational Procedures for the Administration of the Legal Services Assistance Program

3503.1 The Area Agency on Aging shall ensure that the entity that such agency has contracted with delivers legal services assistance that most fully meet the following standards:

- A) Have staff with expertise in the specific areas of law effecting older individuals, such as:
 - 1) Economic and social need including public benefits, institutions and alternatives to institutionalization.

- 2) Estate planning.
 - 3) Wills and trusts.
 - 4) Guardianship/conservator-ship.
 - 5) Health law including quality of care, living will, medical and general durable power of attorney, long-term care.
 - 6) Pensions.
 - 7) Remedies for abuse, neglect and exploitation.
 - 8) Consumer.
 - 9) Landlord/tenant.
 - 10) Probate.
 - 11) Age discrimination in employment.
- B) Demonstrate the capacity to provide effective administrative and judicial representation in the areas of law affecting older individuals with economic and social needs.
- C) Demonstrate the capacity to deliver legal services assistance to institutionalized, isolated and homebound, older individuals.
- D) Demonstrate the capacity to provide legal services assistance in the principal language used by the client in the area, or to acquire interpreters in order to break down communication barriers. This includes sign language and oral interpreters for deaf and hard-of-hearing elderly, as required by the Americans with Disabilities Act.
- E) Demonstrate the capacity to provide services without requiring the imposition of an income or means test for services.
- F) Demonstrate the capacity to provide the client with the opportunity to contribute voluntarily to the cost of services.
- G) Provide services within the entire planning and service area or at least a county within the planning and service area.
- 3503.2 The Area Agency on Aging shall ensure that the entity that such agency has contracted with comply with the following requirements:
- A) Establish priorities to serve persons age sixty or over who are frail, homebound by reason of illness, incapacity, disability, or are otherwise isolated, as established in the Area Plan on Aging.
 - B) Establish guidelines to prevent conflict of interest by other interference in professional responsibilities by attorneys providing services under the provisions of the Older Americans Act.
 - C) Establish procedures that ensure assistance is not provided in a fee generating case unless other adequate representation is unavailable or there

is an emergency requiring immediate legal action for referral of fee-generating services.

- D) Establish procedures that no attorney while engaged in legal assistance funded by the Older Americans Act engages in any political activity.
- E) Establish procedures that ensure that no Older Americans Act funds will be used for lobbying activities, including but not limited to, influencing any decision or activity by a non-judicial Federal, State or Local individual or body.
- F) Establish a system to permit older persons the opportunity to contribute voluntarily to the cost of service, to protect the privacy of older persons with regard to their contribution, and to account for and use the contributions to expand the delivery of legal services.
- G) Establish and use case priorities for services to include areas of concern for older persons such as abuse, neglect and exploitation, quality of health care, or residential care, long-term care, home and community based care, access to services and public benefits, guardian/conservator, Social Security, SSI, Medicare, Medicaid, landlord/tenant, and client referrals to the Long-Term Care Ombudsman Program or Adult Protective Services.
- H) Establish procedures to ensure that when the provider has contracts to provide legal assistance funded by funds other than the Older Americans Act that efforts be maintained to continue to meet service obligations to an individual sixty years of age or older under other funding sources.
- I) Serve clients whose primary language is not English as described in section 3503.1.D.
- J) Provide outreach to serve homebound or institutionalized persons.
- K) Accept case referrals from the Long-Term Care Ombudsman and Adult Protective Services for legal assistance.
- L) Maintain professional liability insurance coverage to cover errors and omissions by staff and management. The State will be named as a co-beneficiary on the policy.
- M) Establish an efficient intake system that is responsive to the needs of older individuals.
- N) Establish and enforce standards for staff training, performance, and review to ensure that quality legal assistance is provided within the Canons of Ethics of the Bar Association.
- O) Establish a client grievance system that shall be either posted or given to the client.
- P) Coordinate services with other elderly services in the service area so as to make appropriate referrals including linkages with services to the homebound or institutionalized older persons including the Long-Term Care Ombudsman Program.

Q) Provide sufficient documentation for program evaluation that does not violate client confidentiality or attorney client privilege.

R) Provide that offices are accessible for persons with mobility handicaps, and that guidelines are followed regarding physical and program access under the Americans with Disabilities Act.

3505.3 Area Agencies on Aging are required to monitor annually the entity that such agency has contracted with using a monitoring document approved by the Aging and Adult Administration. The Aging and Adult Administration will review the Area Agency on Aging monitoring reports during an annual assessment.

3504 Operational Procedures for Legal Services Assistance Program Reporting Requirements

3504.1 The Area Agency on Aging shall collect data and maintain records relating to the Legal Service Assistance Program as defined in the Aging and Adult Administration Policy Chapter 1600.